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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicants: David L. Rimm et al

Docket No.: H-1296(4)

Serial No.: 10/042,016

Group: 1641

Filed: January 10, 2002

Examiner: C. Chin

For: "Method for the Detection, Identification, Enumeration and Confirmation of Virally Infected and Other Epitopically Defined Cells in Whole Blood"

**RESPONSE B**

Hon. Commissioner of Patents and Trademarks  
Washington, D.C. 20231

Dear Sir:

This is responsive to the Official Office Action dated December 2, 2004. The Examiner has issued an office action on the merits relating to the applicants' previously elected claims. Applicants elected to prosecute the invention defined by Claims 1-10 and 14-16. Claims 1 and 14 have been rejected under the judicially created doctrine of nonstatutory double patenting in view of the subject matter of Claim 1 of commonly owned U.S. Patent No. 6,197,523. Claim 10 has been rejected as being vague and indefinite, and Claims 2, 3, 9, 15 and 16 have been objected to. The specification has been objected to due to the failure to update the status of the parent application. Claims 4-8 and 11-13 have been withdrawn from consideration. Applicants hereby affirm the above election without traverse.

Please amend the subject application as follows.